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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/745,471	12/26/2000	Minoru Fukuda	201273US2	1853

22850 7590 10/16/2002

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EXAMINER

WERNER, FRANK E

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 10/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE  
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5709/745471

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER NUMBER
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DATE MAILED:

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☐ Responsive to communication(s) filed on \_\_\_\_\_
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire \_\_\_\_\_ month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-134 is/are pending in the application.
- Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☒ Claims 1-134 are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☒ The drawing(s) filed on 4-2-01 are approved is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

- SEE OFFICE ACTION ON THE FOLLOWING PAGES -

Art Unit: 3652

1. This application contains claims directed to the following patentably distinct species of the claimed invention: Species A – Figs. 1-5; or Species B – Figs. 6-8; or Species C – Figs. 9 or Species D – Fig. 10; or Species E – Figs. 11A and 11B; or Species F – Figs. 12 and 13; or Species G – Figs. 15A to 15C; or Species H – Fig. 16; or Species I – Figs. 17A and 17B.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim appears to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Art Unit: 3652

\a. Moreover, note that at least the base claims included in the above election requirement must be of the same scope or a further election of invention will then be required.

Further, it appears that 134 claims present in the instant application are unduly multiplied and taken as a whole, they obscure and conceal the invention and accordingly fail to comply with 35 U.S.C. 112.

Typical examples of substantial duplication or lack of material differentiation are as follows:

Claims 12 and 79; claims 13 and 80; claims 14 and 81; claims 15 and 82, etc.

Because the Examiner believes the invention claimed can be adequately protected by 25 claims (including no more than 5 base claims), it is suggested that Applicant (1) reduce the number of claims, so as not to exceed 25 claims or (2) select no more than 25 claims for purposes of examination on the merits.

2. The prior art of April 2, 2001; of Nov. 6, 2001; of April 16, 2002; and of June 4, 2002 will be considered when rendering an action on the merits.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. E. Werner whose telephone number is (703) 308-1140. The examiner can normally be reached on Wednesday to Friday from 5:30 a.m. to 6 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis, can be reached on (703) 308-3248. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Application/Control Number: 09/745,471

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Art Unit: 3652

Summary:

Claims 1-134 are subject to a restriction requirement.

Restriction – SSP 1 mo.

Werner/kl  
September 30, 2002

  
FRANK E. WERNER  
PRIMARY EXAMINER 10/02  
3652